

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:09-cr-29

v.

HON. JANET T. NEFF

EMMANULE DAVON DAVIS,

Defendant.

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**MEMORANDUM OPINION AND ORDER**

Defendant Emmanule Davon Davis has filed a motion for modification or reduction of sentence (Dkt 202) pursuant to 18 U.S.C. §3582(c)(2) on the basis of Amendment 782 of the United States Sentencing Guidelines, made retroactive by the Sentencing Commission.

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines reduced by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties in U.S.S.G. §§ 2D1.1 and 2D1.11. These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10.

However, the defendant appears to be ineligible for consideration because the mandatory minimum sentence of imprisonment, which is the controlling guideline, was imposed at sentencing. Counsel for defendant has filed a response (Dkt 213) to the report of eligibility and preserves this issue for future consideration should the law change.

Therefore, IT IS HEREBY ORDERED that Defendant's motion for modification of sentence (Dkt 202) pursuant to 18 U.S.C. § 3582(c)(2) is DENIED.

DATED: April 10, 2015

/s/ Janet T. Neff  
JANET T. NEFF  
United States District Judge